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[REDACTED] EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 10/092,852	Applicant(s) CHAI
Examiner James O. Hansen	Art Unit 3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on Mar 5, 2002
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on Mar 5, 2002 is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

- a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

- a) The translation of the foreign language provisional application has been received.

- 15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) Other:

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DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: "26". A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: On page 5, the specification refers to Figures 13 & 14 under the "Brief Description of the Drawings" section, however, these figures are not part of the application as originally filed. Appropriate correction is required. Additionally, in line 22, the phrase "strut members 60" should be --strut members 16--.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 2, the phrase "hinged joints are formed the pole members between their

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upper and lower ends" is unclear and confusing as presently worded. In claims 2-19, 21 & 23-25, the phrase "A collapsible structure" may be construed as being a double inclusion of the previously defined "A collapsible structure" [claim 1]. The examiner suggest changing the dependent claims to --The collapsible structure...--. Claims 9-10 are deemed misdescriptive since it is not clear how or if the cover is attached to the strut members [internal of the pole members] and attached to the pole members [external of the strut members]. Claim 10 recites redundant limitations in view of claim 9. Claims 9-11 & 13-24 are indefinite since the phrase "the flexible cover" does not have a proper antecedent basis [should be --covering--]. In claims 20 & 22, the phrase "A multiple unit collapsible structure" does not constitute a proper preambulatory antecedent basis since the independent claim [claim 1] is directed towards a "collapsible structure". Consequently, the remaining claims are rendered indefinite because they are dependent upon a rejected claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5, 8-10, 15-18 & 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al., [U.S. Patent No. 2,864,389]. Smith (figures 1-11) teaches of a collapsible structure (fig. 1) comprising: a plurality of pole members (16 e.g.,) having top and bottom ends; an upper

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hub member (38) to which the top ends of the pole members are pivotally attached; a lower hub member (45) positioned below the upper hub member; a plurality of strut members (21) having inner and out ends, the outer end being pivotally attached to a pole member and the inner end being pivotally attached to the lower hub member; and a flexible covering (10) disposed upon and traversing the pole members; wherein the structure is disposable in a constructed configuration where the lower hub member is in abutment with the upper hub member (fig. 9), and a collapsed configuration where the lower hub member is spaced a distance below the upper hub member (fig. 10), the pole members being close together when in the collapsed position. The pole members having hinged joints between their top and bottom ends (see fig. 2 for example) allowing the poles to be folded when in the collapsed configuration, as best understood by the examiner. The inner ends of the strut members being elevated above the outer ends of the members [appears slightly elevated] when the structure is in the constructed configuration, wherein an application of a downward pressure on the upper hub would cause the inner ends of the strut members to move to positions below the outer ends as readily apparent to the examiner. At least one pull cord (37) attached to the lower hub member and extending upwardly through the upper hub member (fig. 10) such that the pulling of the cord pulls the lower hub member closer to the upper hub member. The covering comprises a woven fabric i.e., canvas. The covering is attached to the strut members via the hinged joints connected to the pole members as best understood by the examiner. The pole members bow to an arcuate configuration when in the constructed configuration (fig. 9).

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An entry opening formed in the fabric having a removable panel (both depicted in fig. 3). A locking structure (51) for mechanically locking the upper hub member to the lower hub member.

7. Claims 1-5, 7, 9-10, 15-19 & 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Beder [U.S. Patent No. 4,304,068]]. Beder (figures 1-13) teaches of a collapsible structure (fig. 11) comprising: a plurality of pole members (6 e.g.,) having top and bottom ends; an upper hub member (3") to which the top ends of the pole members are pivotally attached; a lower hub member (8") positioned below the upper hub member; a plurality of strut members (9) having inner and out ends, the outer end being pivotally attached to a pole member and the inner end being pivotally attached to the lower hub member; and a flexible covering (col. 7, line 10) disposed upon and traversing the pole members; wherein the structure is disposable in a constructed configuration where the lower hub member is in abutment with the upper hub member (fig. 11), and a collapsed configuration where the lower hub member is spaced a distance below the upper hub member (fig. 12), the pole members being close together when in the collapsed position. The pole members having hinged joints between their top and bottom ends (see fig. 12 for example) allowing the poles to be folded when in the collapsed configuration, as best understood by the examiner. The inner ends of the strut members being elevated above the outer ends of the members [see fig. 11] when the structure is in the constructed configuration, wherein an application of a downward pressure on the upper hub would cause the inner ends of the strut members to move to positions below the outer ends as readily apparent to the examiner. At least one pull cord (24) attached to the lower hub member and extending upwardly through the

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upper hub member (fig. 13) such that the pulling of the cord pulls the lower hub member closer to the upper hub member. The covering comprises a plastic sheet [see col. 7]. The covering is attached to the strut members via the hinged joints connected to the pole members as best understood by the examiner. The pole members bow to an arcuate configuration when in the constructed configuration (fig. 11). An entry opening formed in the fabric having a removable panel (both depicted in fig. 4 for example - the panel being formed along the L-shaped zipped portion). A zipper (clearly depicted in fig. 11) for closing the entry opening. A locking structure (11) for mechanically locking the upper hub member to the lower hub member.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. Smith teaches applicant's inventive claimed concept as disclosed above, but does not specifically show the covering as being made of plastic. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to vary the type of material used to manufacture the covering, since it has been held to be within the general skill of a worker in the

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art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

10. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Watts [U.S. Patent No. 3,794,054]. Smith teaches applicant's inventive claimed concept as disclosed above, but does not specifically show the covering as having channels for receiving the pole members. However, Watts (figures 1-9) teaches of a collapsible structure having a covering element (52) utilizing channels (57-59) for receiving poles (17) in an analogous art. The channels being spaced apart to form "cut-out" regions allowing the poles to be folded. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the covering channels as taught by Watts because this type of covering arrangement would provide Smith with a more secure covering fastening structure since the poles would be inserted within portions of the covering while the "cut-out" portions would still enable the encased poles to be folded as originally designed.

11. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Beder. Smith teaches applicant's inventive claimed concept as disclosed above, but does not specifically show the panel as being attached via a zipper [it appears that Smith utilizes a snap button arrangement]. However, Beder (figure 11) teaches of a collapsible structure wherein the entry opening is secured via a zipper. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the closure means of Smith so as to employ a

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zipper as taught by Beder because a zipper would seal off the entry opening quicker and more effectively (no spaced gaps) than a snap button arrangement.

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Zheng [U.S. Patent No. 5,618,246]. Smith teaches applicant's inventive claimed concept as disclosed above, but does not specifically show a plurality of like structures connected by a tunnel. However, Zheng (figure 12) teaches the use of a tunnel (82 e.g.,) to connect like structures (90 & 96 e.g.,) as being old and well known in the art. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to employ multiple structures and then connect them together as taught by Zheng because this arrangement [use of a tunnel between like structures] would allow multiple structures to be interconnected thus extending the enclosed space.

13. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al., in view of Zheng and further in view of Rehbein [U.S. Patent No. 6,202,666]. The prior art teach applicant's inventive claimed concept as disclosed above, but do not specifically show the covering as having prescribed indicia. However, Rehbein (figures 1-15) teaches of a collapsible structure having a covering element (figs. 14 for example) utilizing graphic indicia. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the covering of the prior art so as to incorporate indicia on the covering because this feature would enhance the aesthetic properties of the structure. Furthermore, where the printed matter is not functionally related in a new or unobvious way to the substrate upon which it is located, the

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printed matter will not distinguish the invention from the prior art in terms of patentability. Accordingly, it is not believed that the claimed printed matter (decoration) in fact establishes any new or unobvious function relationship to the substrate upon which is located. Instead, it appears that the printed matter is merely carried by the substrate and provides ornamentation thereto (lacking a new or unobvious functional relationship), as such, the claimed printed matter is not germane to patentability and therefore does not represent a difference or distinction over the prior art.

Allowable Subject Matter

14. Pending further consideration, Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yercha et al., describes a decorative tent. Griffin describes a covering assembly configured to resemble an animal. British publication 2136845 and Oberhaus describe foldable tents.

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Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 308-1113. Fax numbers for Official Papers are as follows:

Before Final (703) 872-9326 & After Final (703) 872-9327.

Any inquiry concerning this communication from the examiner should be directed to James O. Hansen whose telephone number is (703) 305-7414. Unofficial Papers can be faxed to the examiner directly via (703) 746-3659. Examiner Hansen can normally be reached Monday to Friday from 9:00 A.M. to 5:00 P.M. Eastern Time Zone.



James O. Hansen
Primary Examiner
Technology Center 3600

JOH
July 27, 2003